

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (AKRON)**

MR. MORTON & MRS. KIM COLLINS,)	CASE NO.: 5:12-cv-02677
)	
)	
Plaintiff,)	JUDGE DAVID D. DOWD, JR.
)	MAGISTRATE KATHLEEN B. BURKE
v.)	
)	
MERCURY LINCOLN FORD CUSTOMER RELATIONS DEPT., <i>et al.</i>)	
)	
Defendant.)	<u>ANSWER OF DEFENDANT FORD MOTOR CREDIT COMPANY LLC</u>

For its Answer to the Complaint filed by Plaintiffs Mr. Morton and Mrs. Kim Collins (“Plaintiffs”), Defendant Ford Motor Credit Company LLC (“Ford Credit”), improperly styled above as Mercury Lincoln Ford Customer Relations Dept.¹ and Mazda American Credit Customer Relations Dept.,² admits, denies, and avers, as follows:

FIRST DEFENSE

1. Paragraphs 1-4 of the Complaint are statements that do not require a response. To the extent that Paragraphs 1-4 are construed to contain allegations, Ford Credit denies the allegations for lack of knowledge or information sufficient to form a belief as to their truth.

2. Paragraph 5 of the Complaint is a statement that does not require a response. To the extent that Paragraph 5 is construed to contain allegations, Ford Credit denies the allegations for lack of knowledge or information sufficient to form a belief as to their truth, except to admit

¹ As set forth in the Notice of Removal, Plaintiffs served “Mercury Lincoln Ford Customer Relations Dept.” at two separate addresses, one in Nebraska and one in Ohio. While the Nebraska address is affiliated with Ford Credit, Ford Credit is not affiliated in any way with the Ohio address. Service has not been perfected on anyone at the Ohio address.

² As set forth in the Notice of Removal, Ford Credit does business as Mazda American Credit.

that this Answer is filed on behalf of named party Mazda American Credit. As set forth above, Ford Credit is improperly styled as Mazda American Credit.

3. Paragraph 6 of the Complaint is a statement that does not require a response. To the extent that Paragraph 6 is construed to contain allegations, Ford Credit denies the allegations for lack of knowledge or information sufficient to form a belief as to their truth, except to admit that this Answer is filed on behalf of named party Mercury Lincoln Ford. As set forth above, Ford Credit is improperly styled as Mercury Lincoln Ford.

4. Paragraph 7 of the Complaint is a statement that does not require a response. To the extent that Paragraph 7 is construed to contain allegations, Ford Credit denies the allegations for lack of knowledge or information sufficient to form a belief as to their truth. Ford Credit further states that no individual “Salesman” has been named as a party or served in this action. Thus, no “Salesman” is a party to this action.

5. Ford Credit denies the allegations in Paragraph 8 of the Complaint for lack of information sufficient to form a belief as to their truth, except to admit that Portage County, Kent, Ohio, had subject-matter jurisdiction over the case.

6. Ford Credit denies the allegations in Paragraph 9 of the Complaint for lack of information sufficient to form a belief as to their truth, except to admit that Ford Credit provided financing for a 2007 Mazda CX7 (the “Loan”), purchased on January 11, 2007. Ford Credit admits that it did not receive the “Sales Transaction Information,” prior payments, or a \$1,000 payment from the Salesman. Ford Credit admits that Ford Credit has made lawful attempts to collect on the Loan. Ford Credit denies that it has harassed the Plaintiffs in any way.

7. Ford Credit denies the allegations in Paragraph 10 of the Complaint for lack of information sufficient to form a belief as to their truth.

8. Ford Credit denies the allegations in Paragraph 11 of the Complaint. Ford Credit further states that the “Salesman” is not an employee, agent, or representative of Ford Credit and was not acting on behalf of Ford Credit.

9. In response to Paragraphs 12-14 of the Complaint, Ford Credit denies that Plaintiffs are entitled to any damages from Ford Credit.

10. Paragraph 15 of the Complaint is a statement that does not require a response. To the extent that Paragraph 15 is construed to contain allegations, Ford Credit denies the allegations.

11. Ford Credit denies the allegations in Paragraph 16 of the Complaint.

12. Ford Credit denies the allegations in Paragraph 17 of the Complaint.

13. To the extent that the Sworn Affidavit of Mr. Morton Collins is construed to contain allegations, Ford Credit denies all allegations for lack of information sufficient to form a belief as to their truth.

14. To the extent that the July 26, 2012, letter from Mr. Morton Collins and Mrs. Kim Collins is construed to contain allegations, Ford Credit denies all allegations for lack of information sufficient to form a belief as to their truth, except to admit that Ford Credit did not receive a “transfer of money” from the “Salesman,” that 58 payments have been made towards the Mazda CX7, and that Ford Credit has made lawful attempts to collect on the Loan. Ford Credit further states that it has not harassed Plaintiffs in any way.

15. To the extent that the Sworn Affidavit of Mrs. Kim Collins is construed to contain allegations, Ford Credit denies all allegations for lack of information sufficient to form a belief as to their truth.

16. To the extent that the July 20, 2012, letter from Kim Collins is construed to contain allegations, Ford Credit denies all allegations for lack of information sufficient to form a belief as to their truth, except to admit that Ford Credit did not receive a \$7,000 payment from Mercury Lincoln of Ravenna, Ohio.

SECOND DEFENSE

17. The Complaint fails to state a claim upon which relief may be granted against Ford Credit.

THIRD DEFENSE

18. Ford Credit complied with and performed all of its promises, obligations, and duties under its Loan agreement with Plaintiffs.

FOURTH DEFENSE

19. Plaintiffs' claims are barred, in whole or in part, by the doctrines of estoppel, laches or waiver.

FIFTH DEFENSE

20. Plaintiffs have failed to mitigate their alleged damages.

SIXTH DEFENSE

21. Plaintiffs' claims are barred, in whole or in part, due to the terms and conditions of their Loan agreement.

SEVENTH DEFENSE

22. Plaintiffs' claims fail, in whole or in part, by virtue of the doctrine of unclean hands.

EIGHTH DEFENSE

23. Plaintiffs' claims fail, in whole or in part, because the Salesman was not an agent, employee, or representative of Ford Credit.

NINTH DEFENSE

24. Plaintiffs' claims are barred by the applicable statute of limitations.

TENTH DEFENSE

25. Plaintiffs' damages, if any, were caused by intervening or superseding causes over which Ford Credit exercised no control.

ELEVENTH DEFENSE

26. Plaintiffs' damages, if any, were caused by acts or omissions of third parties over whom Ford Credit exercised no control.

TWELFTH DEFENSE

27. Ford Credit, as a private entity, cannot be held liable for alleged 42 U.S.C. § 1983, due process, or equal protection violations.

THIRTEENTH DEFENSE

28. Ford Credit hereby reserves its right to assert any additional defenses that may be applicable during the course of discovery in this matter.

WHEREFORE, having fully answered, Defendant Ford Motor Credit Company LLC respectfully requests: (1) that judgment be entered in its favor against Plaintiffs; (2) that Plaintiffs' Complaint against it be dismissed with prejudice; (3) that it may recover from Plaintiffs the costs and reasonable attorneys' fees associated with this action; and (4) any other legal and equitable relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Brett K. Bacon

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Ford Motor Credit Company LLC

CERTIFICATE OF SERVICE

A copy of the foregoing was filed electronically on November 1, 2012. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Notice of this filing was likewise sent on November 1, 2012, by regular U.S. mail, to:

Mr. Morton Collins
Mrs. Kim Collins
2205 East 39th Street
Cleveland, Ohio 44115

Plaintiffs

/s/ Brett K. Bacon

Attorney for Defendant

Ford Motor Credit Company LLC